

The Honorable Thomas S. Zilly

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NEXTUNE, INC., a Washington Corporation,

Plaintiff,

v.

ROBERT BUCKNER McKINNEY,
individually; CHRISTOPHER SCOTT
HARRISON, individually; and EMI MUSIC
NORTH AMERICA, a Delaware Corporation,

Defendants.

Case No. 2:12-cv-01974

DECLARATION OF JASON R.
DONOVAN IN OPPOSITION TO
DEFENDANT HARRISON'S MOTIONS
TO DISMISS

I, Jason R. Donovan, declare as follows:

1. I am counsel for plaintiff nexTUNE, Inc. in the above-captioned matter and the claims asserted in this action. I am over 18 years of age, have personal knowledge as to the matters set forth herein, and am competent to testify to them.

2. Attached as Exhibit A is a true and correct copy of the Declaration Of Defendant Christopher Harrison In Support Of Motion For Sanctions Pursuant To FRCP 11. I received a copy of that declaration by email from Harrison's counsel on December 12, 2012. That declaration was never filed with the Court.

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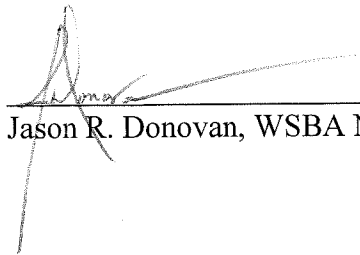
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DECLARATION OF JASON R. DONOVAN IN OPPOSITION
TO DEFENDANT HARRISON'S MOTIONS TO DISMISS - 1
Case No. 2:12-CV-01974

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299
PHONE (206) 447-4400 FAX (206) 447-9700

1 I declare under penalty of perjury that the foregoing is true and correct. Executed at
2 Seattle, Washington this 31st day of December, 2012.

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5 Jason R. Donovan, WSBA No. 40994
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DECLARATION OF JASON R. DONOVAN IN OPPOSITION
TO DEFENDANT HARRISON'S MOTIONS TO DISMISS - 2
Case No. 2:12-CV-01974

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CERTIFICATE OF SERVICE

I certify that on December 31, 2012, a true copy of the foregoing document was served electronically upon the parties via CM/ECF, or as indicated, as follows:

Don Paul Badgley
Badgley Mullins Law Group
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Seattle, Washington 98104
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Email: donbadgley@badgleymullins.com
Counsel for Defendant Christopher Scott Harrison

☐ via Hand Delivery
☐ via First Class Mail, postage prepaid
☐ via Facsimile
☐ via E-mail
☒ via Electronic Court Filing

Robert Buckner McKinney
2203 East 5th
Austin, Texas 78762

☐ via Hand Delivery
☒ via First Class Mail, postage prepaid
☐ via Facsimile
☐ via E-mail
☐ via Electronic Court Filing

EMI Music North America
c/o Melissa Battino
Director, Legal Affairs
150 5th Avenue
New York, New York 10011

☐ via Hand Delivery
☒ via First Class Mail, postage prepaid
☐ via Facsimile
☐ via E-mail
☐ via Electronic Court Filing

s/Jason R. Donovan
Jason R. Donovan

Exhibit A

To Declaration Of Jason R. Donovan In Opposition
To Defendant Harrison's Motions To Dismiss

The Honorable Thomas S. Zilly

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NEXTUNE, INC., a Washington Corporation,

Plaintiff,

v.

ROBERT BUCKNER McKINNEY,
individually; CHRISTOPHER SCOTT
HARRISON, individually; and EMI MUSIC
NORTH AMERICA, a Delaware Corporation,

Defendants.

CASE No.: 2:12-cv-01974-TSZ

DECLARATION OF DEFENDANT
CHRISTOPHER SCOTT HARRISON IN
SUPPORT OF MOTION FOR
SANCTIONS PURSUANT TO FRCP 11

I, Christopher Scott Harrison, declare as follows:

1. I am very concerned that this action will have negative ramifications for my reputation and career.

2. The filing of this suit has damaged me. I had to inform my new employer that I was a defendant in a lawsuit in which I was accused of misappropriating trade secrets. My employer has inquired whether it is required to inform its insurance carrier of this suit. I am also applying for admission to the California Bar as in-house counsel. I will have to disclose these spurious allegations, which may harm my admission process. Finally, as an attorney without a

DECLARATION OF DEFENDANT CHRISTOPHER
SCOTT HARRISON IN SUPPORT OF MOTION FOR
SANCTIONS PURSUANT TO FRCP 11 - 1
2:12-cv-01974-TSZ

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1 single ethical complaint filed during my more than eleven years of practice, the damage to my
 2 reputation is incalculable. The longer these false and malicious allegations remain in the public
 3 record, the more my reputation is damaged.

4 3. At no time did I provide or share any information regarding nexTune or EMI's
 5 claims against nexTune to DMX or Mood or any competitor of nexTune. I never provided the
 6 information provided by nexTune on August 31, 2012 to anyone at DMX or Mood or any
 7 competitor of nexTune. The only use to which the information provided by nexTune was put
 8 was the analysis of my client EMI's legal claims against nexTune.

10 4. I currently reside in Austin, Texas. I have recently accepted employment in
 11 California and will be moving there at the end of this year.

12 5. I have never transacted business in the state of Washington.¹ I have never
 13 represented a client in Washington nor represented a Washington-based client. I have never
 14 solicited clients in Washington, never directed advertising for my legal services to Washington,
 15 and I am not licensed to practice law in Washington.

16 6. I have never committed a tortious act within the state of Washington. I do not
 17 own any real or personal property located in the state of Washington. I have no insurance
 18 covering persons or property or risk located in the state of Washington. I have never conceived a
 19 child in or lived in a marital relationship in the state of Washington.

21 7. Until November 30, 2012, I represented EMI North America ("EMI") in certain
 22 matters related to the enforcement of its copyrights. Effective November 30, 2012 I no longer
 23 represent EMI. The termination of my representation of EMI coincides with my acceptance of
 24

25 ¹ While working for and at the direction of a prior employer, I did visit my former employer's
 26 Seattle office approximately once per year, the last visit coming in August, 2011.

DECLARATION OF DEFENDANT CHRISTOPHER
 SCOTT HARRISON IN SUPPORT OF MOTION FOR
 SANCTIONS PURSUANT TO FRCP 11 - 2
 2:12-cv-01974-TSZ

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1 new employment in California.

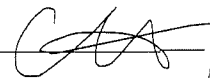
2 8. As a legal representative of EMI, I first met with nexTune's Chairman and
3 President Michael Dukane on September 7, 2012 in Austin, Texas. Prior to this meeting, as a
4 legal representative of EMI I had not telephoned or directed correspondence to nexTune. As a
5 legal representative of EMI, the September 7, 2012 meeting in Austin, Texas was the only
6 contact I had with nexTune.

7 9. I am not involved in any copyright dispute between Plaintiff and the Defendant
8 EMI.
9

10 I am competent to testify to the facts set forth in this declaration and declare under the
11 penalty of perjury of the laws of Washington that the foregoing statements are true and correct.
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13 DATED this 12th day of December, 2012, in Austin, Texas.
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16 Christopher Scott Harrison


12/12/12

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DECLARATION OF DEFENDANT CHRISTOPHER
SCOTT HARRISON IN SUPPORT OF MOTION FOR
SANCTIONS PURSUANT TO FRCP 11 - 3
2:12-cv-01974-TSZ

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on December ___, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Jason R. Donovan, WSBA No. 40994
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s/ Don Paul Badgley
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DECLARATION OF DEFENDANT CHRISTOPHER
SCOTT HARRISON IN SUPPORT OF MOTION FOR
SANCTIONS PURSUANT TO FRCP 11 - 4
2:12-cv-01974-TSZ

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